

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
CIVIL CASE NO. 1:12-cv-00286-MR  
CRIMINAL CASE NO. 1:10-cr-00008-MR-1**

<b>WILLIAM ISAAC SMALLS,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>vs.</b>	)	<b>ORDER</b>
	)	
<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Respondent.</b>	)	
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**THIS MATTER** is before the Court on Petitioner's Motion To Strike and Notice of Intent to Amend his Motion to Vacate, Set Aside, or Correct Sentence under 28 U.S.C. § 2255. [Doc. 5].

In his motion, Petitioner states that he seeks to strike Grounds One and Two in his § 2255 petition, and he wishes to amend his career offender claim.

The amendment of § 2255 pleadings is governed by Rule 15 of the Federal Rules of Civil Procedure. See United States v. Pittman, 209 F.3d 314, 317 (4th Cir. 2000). Rule 15(a) provides that a party may amend its pleading once as a matter of course within 21 days or within 21 days after

service of a responsive pleading. Fed. R. Civ. P. 15(a)(1). In all other cases, a party must seek leave to amend. Fed. R. Civ. P. 15(a)(2).

The Court will treat Petitioner's Motion To Strike and Notice of Intent to Amend his Motion to Vacate, Set Aside, or Correct Sentence under 28 U.S.C. § 2255 [Doc. 5] as a Motion to Amend and will grant it. Petitioner shall have twenty (20) days in which to submit an amended § 2255 petition. As for Petitioner's Motion to Strike Grounds One and Two, Petitioner need only omit these claims in his amended § 2255 petition, and the Court will deem them abandoned.

Section 2255 generally provides for a one-year statute of limitations from the date on which a petitioner's judgment becomes final. 28 U.S.C. § 2255(f)(1). **Petitioner is on notice that claims in the amended petition may be subject to dismissal based on timeliness if the Court does not apply equitable tolling to the claims.**

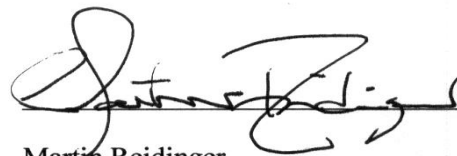
The Court hereby warns Petitioner that, under Rule 8(a)(2) of the Federal Rules of Civil Procedure, a Complaint must contain "a **short and plain statement** of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2) (emphasis added). Petitioner's original petition is 39 pages long. In his amended petition, Petitioner shall submit a short and plain statement of his claims in accordance with Rule 8. This means that

Petitioner's amended petition must be no more than ten (10) pages long, and if it is typed it must be double-spaced, with at least a 12 point font.

**IT IS, THEREFORE, ORDERED** that Petitioner's Motion To Strike and Notice of Intent to Amend his Motion to Vacate [Doc. 5] is **ALLOWED**. Petitioner shall have twenty (20) days from entry of this Order to file an amended petition. Petitioner's amended petition must be no more than ten (10) pages long, and if it is typed it must be double-spaced, with at least a 12 point font. If an amended petition is not filed within twenty (20) days, the Court will proceed to conduct an initial review of the original Complaint.

**IT IS SO ORDERED.**

Signed: May 25, 2013

  
Martin Reidinger  
United States District Judge

